

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 24, 2008
POSITION: Oppose

BILL NUMBER: AB 3058
AUTHOR: Assembly Utilities and
Commerce

BILL SUMMARY: Electric Power Contracts: Just and Reasonable Charges

This bill, an urgency statute, would require any proposed material change to a Department of Water Resources (DWR) power contract to be submitted to the California Public Utilities Commission (PUC) to determine whether the costs and administration of the proposed change are just and reasonable.

FISCAL SUMMARY

The impact on the DWR of requiring contract amendments to be subject to PUC just and reasonable determinations is unknown but likely significant.

This bill also would increase costs for the PUC to review approximately 25 DWR power contracts each time they are amended. The PUC estimates this bill would require 2.0 positions and \$243,000 PUC Utilities Reimbursement Account to conduct additional contract reviews and conduct additional administrative law hearings. The need for staffing and resources resulting from this bill would be evaluated during the annual budget development process.

COMMENTS

Finance opposes this bill for the following reasons:

- The DWR's ability to react quickly to changing market conditions and opportunities that would be beneficial to the state would be hindered by uncertainty about what constitutes a "material" change that would trigger a PUC review.
- This bill presents unknown legal consequences for current proceedings in front of the Federal Energy Regulatory Commission (FERC). The U.S. Supreme Court recently ruled that FERC must rehear litigation related to the renegotiation of DWR energy contracts entered into during the 2000-01 energy crisis. Consequently, it is unclear how the PUC's responsibilities under this bill would relate to these Court-mandated FERC proceedings.

Existing law requires the DWR to achieve an overall portfolio of contracts for power resulting in reliable service at the lowest possible price per kilowatt hour and allows the DWR to enter into contracts for the purchase of electricity, to sell electricity to retail end-use customers, and to determine if the contracts entered into are just and reasonable.

In the past six years, DWR has amended and renegotiated many of its long-term power contracts to cut the total cost of its energy portfolio. Some of the renegotiations took place within the framework of global settlements against suppliers who engaged in market gaming activity during the energy crisis of 2000 and 2001. The State has not settled with all of the suppliers. Three have long-term contracts with DWR that the PUC, along with the Office of the Attorney General, is challenging at the FERC under the just and reasonableness standard of Section 205 of the Federal Power Act.

Analyst/Principal (0631) K. DaRosa	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
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BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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Form DF-43
BILL NUMBER

AB 3058

<u>Fund Code</u>	<u>Title</u>
0001	General Fund
0462	Publ Utilities Comm Utilities Reimb Acct
3089	PUC Ratepayer Advocate Account